

**Stormwater Stakeholder Advisory Group
Enforcement Work Group**
Monday, June 15, 2015
Final Meeting Notes²

Location: DEQ Central Office
2nd Floor Conference Room A
629 E. Main Street, Richmond, VA

Start: 9:15 a.m.
End: 12:03 p.m.

EWG Members Present:

Peggy L. Sanner, Chesapeake Bay Foundation
Elizabeth A. Andrews, DEQ
Michael Toalson, HBAV

Chris Pomeroy, Aqua Law
James Golden, DEQ
Melanie Davenport, DEQ (arrived at 10:40 a.m.)

Facilitator: Mark Rubin, VCU
Recorder: Debra Harris, DEQ

Guests and Public Attendees:

Drew Hammond, DEQ
Kathleen O'Connell, DEQ

Carla Pool, DEQ
Christine Watlington, VDOT

I. Agenda Item: Welcome and Overview of Handouts

Discussion: Mark Rubin welcomed all to the meeting. Elizabeth Andrews provided an overview of the handouts (Attachment B).

II. Agenda Item: Penalties

Discussion: The EWG¹ discussed the DEQ strawman with proposed revisions to send any penalties collected for violations of the SWMA to the VEERF rather than the VSMF (Attachment B – Handout B). As noted in previous meetings, penalties collected under the SWMA are unique in that they are to be deposited into the VSMF which is used for the purposes of carrying out the DEQ's responsibilities under the SWMA. The DEQ would prefer that penalties from the enforcement of the stormwater provisions be placed in the VEERF. The EWG discussed the options and based on the discussion, the EWG agreed that penalties should go to the VEERF as is done in the other water programs.

III. Agenda Item: Penalty/Injunctions

Discussion: The EWG discussed the provisions on the articles and the SWCL regarding penalties/injunctions (Attachment B – Handout A). Currently, there is no consistency between the articles on the amount of penalties for violations (see highlights in Handout A). Based on the discussion, the EWG asked the DEQ to draft a strawman for penalties/injunctions where the penalty amount will not exceed \$32,500 per day per violation for projects of one acre or greater (as currently provided in the SWMA and the SWCL) and for projects less than an acre, a lesser penalty should be imposed.

IV. Agenda Item: Program Review - Penalties

Discussion: The EWG discussed the provisions on the articles and the SWCL regarding penalties that may be imposed on a VSMP/VESCP authority found to be non-compliant during a program review (Attachment B – Handout A). Based on the discussion, the EWG asked the DEQ to draft a strawman for program review penalties not to exceed \$50,000 on civil penalties and no cap on consent special orders.

IV. Agenda Item: Compliance and Stop Work Orders

Discussion: The EWG then discussed the DEQ strawman for stop work orders and compliance provisions under the articles (Attachment B – Handout C). The EWG discussed the revisions under § 62.1-44.15:37 and noted that DEQ should serve a notice to comply by mail and not by hand-delivery which is an option in the SWMA. Additionally, reasonable time to come into compliance should be provided in any notice to comply. The EWG asked for Handout C to be revised per today's discussions and sent to the EWG for further consideration at the next meeting. DEQ will make the noted changes to 15:37, add line numbers and send to the EWG prior to their next meeting.

The meeting was then adjourned.

¹ Acronym list is provided in Attachment A

² EWG approved 7/21/15

Attachment A List of Acronyms

Acronyms:

CBPA – Chesapeake Bay Preservation Act
DEQ – Department of Environmental Quality
E&SC – erosion and sedimentation control
ESCL – Erosion and Sedimentation Control Law
EWG – Enforcement Work Group (a subgroup of the SAG)
IWG - Implementation Work Group (a subgroup of the SAG)
NWG – Nutrient Trading Work Group (a subgroup of the SAG)
RLD – Responsible Land Disturber
SAG – Stormwater Advisory Group
SWCL – State Water Control Law
SWMA – Stormwater Management Act
VEERF – Virginia Environmental Emergency Response Fund
VSMF – Virginia Stormwater Management Fund
VSMP – Virginia Stormwater Management Program
WWG – Wordsmithing Work Group (a subgroup of the SAG)

Attachment B Handouts



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Handout.docx

Handout A



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Handout B



Enforcement
Workgroup provisions

Handout C